

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BILLY BUTLER,

Plaintiff,

v.

TEXAS BOARD OF PARDONS AND
PAROLES,

Defendant.

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Case No. 6:22-cv-181-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Billy Butler, a former Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

Before the Court is Plaintiff's motion to dismiss his claims in this case concerning prosecutorial and judicial misconduct. Docket No. 10. On July 7, 2023, Judge Mitchell issued a Report recommending that the Court grant Plaintiff's motion to dismiss. The Report also recommended that the Court dismiss Plaintiff's claims in this case concerning the validity of his conviction as duplicative to his pending habeas case and dismiss his claims of denial of release on mandatory supervision as moot. Docket No. 11. Plaintiff has not filed objections to the Report.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and


Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 11) as the findings of this Court. It is therefore **ORDERED** that Plaintiff’s motion to dismiss (Docket No. 10) is **GRANTED** and Plaintiff’s claims of judicial and prosecutorial misconduct are **DISMISSED** without prejudice. Plaintiff’s claims concerning the validity of his conviction are **DISMISSED** without prejudice to Plaintiff’s right to pursue these claims in his habeas corpus petition. Plaintiff’s claims concerning release to parole or mandatory supervision and his good time and work time are **DISMISSED** as moot.

A certificate of appealability is denied as to the appeal of any habeas claims presented in this lawsuit.

So **ORDERED** and **SIGNED** this **8th** day of **August, 2023**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE